

PLANNING COMMISSION MINUTES OF JULY 11, 2005

2005-0464: Appeal of a decision by the Director of Community Development denying a Tree Removal Permit for a Canary Island Palm Tree in the front yard. The property is located at **810 Devonshire Way** (near Kingfisher Wy) in an R-0 (Low-Density Residential) Zoning District. (APN: 309-28-047) SD

Gerri Caruso, Principal Planner, presented the staff report. A Tree Removal Permit was requested in May, 2005. The City arborists reviewed the tree on the site and recommended denial of its removal. The Planning staff reviewed the tree a second time and was unable to make the findings to approve the permit. The applicant made some additional notes including that the fruit of the tree is considered by the applicant to be a choking hazard for the children on site. They would like the availability of the front yard of their house for a play area for the children as the backyard has a pool. The tree roots have caused damage to the patio concrete slab and potentially to the sewer lines. The applicant feels that the tree's location restricts the owner's ability to enjoy the full economic potential of the property. Staff is still recommending denial as staff can not make findings. If the Planning Commission is able to make the findings, staff is recommending approval based on the Conditions in Attachment B.

Ronen Perets, applicant and appellant, thanked staff for assisting with the presentation and the Planning Commissioners for making the site visits. Chair Hungerford also thanked Mr. Perets for his patience in waiting through the long public hearing preceding this item. Mr. Perets presented a PowerPoint presentation. He said the tree is a female Canary Palm, located in the front yard and stands about 20 to 30 ft. high. They have two children and would like to be able set up a play area for the children in the front yard as there is no backyard area to play, due to a pool. He is appealing the decision because it is a safety hazard due to seed pods, fruit and dead limbs that occasionally fall. He has it trimmed about twice a year and it is very costly. He said that the tree reduces the ability to use the front yard and that a safety zone around the tree has to be maintained. He said that the front yard is the only area on the property where they can provide play room for the kids. Staff recommends denial of the appeal and recommends pruning the tree. Mr. Perets does not feel pruning is sufficient as dead limbs continue to fall. Staff feels the tree makes a contribution to the value of the property and to the streetscape. He says he feels it reduces his ability to use his property the way he feels best benefits his family. Mr. Perets showed pictures of the tree that he feels show that the tree is not that visible on the street and does not contribute much to the streetscape. He said the tree kills the whole front yard and said that he would have to put a safety zone around the tree. He said he has talked to the several of the neighbors and no one has expressed objection to the tree removal. He would like to relocate the tree, make the yard safe for the kids and put in a play set that meets the height limits.

Chair Hungerford opened the public hearing.

Chair Hungerford closed the public hearing.

Comm. Babcock moved for Alternative 1., to deny the appeal and uphold the denial of the Tree Removal Permit per staff recommendation. Comm. Fussell seconded.

Comm. Babcock said she was unable to make the findings for the removal of the tree. She feels there is sufficient room at the home to provide a play area for his children. She also said she felt the relocation of the tree and other options would be costly compared to the yearly maintenance costs.

Comm. Moylan added that he and others have wished the tree removal ordinance would be modified. In cases where someone applies for a tree removal permit and gets turned down, and one of the reasons for requesting removal is cost of maintenance, if the City requires that the tree has to stay, then maybe the City should help pay for maintenance. Comm. Moylan commented that he had questioned the map, that more play space would be created if a row of the concrete slabs was removed and posed a question whether something like a swing set could have the same permanence as a remodel where trees can sometimes be removed. Comm. Moylan said that he is unable to make the findings so he will be supporting the motion.

Comm. Simons said he would be supporting this motion.

ACTION: Comm. Babcock made a motion on Item 2005-0464 for Alternative 1., to deny the appeal and uphold the denial of the Tree Removal Permit. Comm. Fussell seconded. Motion carried unanimously, 7-0.

APPEAL OPTIONS: This decision is final and is not appealable.